

REMARKS

Claims 68, 86, and 100 are amended herein. Claims 1-67 were previously cancelled. Therefore, claims 68-130 are presently pending. The amendments to the claims are fully supported by the original claims and specification. For example, page 4, lines 24-26 (product produced by the plants of the present invention is not genetically modified, as the rootstock is the only transgenic part of the plant); page 17, lines 26-27 (grafting to produce transgenic plants resistant to viral infection, wherein the rootstock is the only genetically modified part of the plant); page 22, lines 17-23 (transgenic rootstock . . . confers viral resistance to a susceptible scion [i.e., non-transgenic] . . . and shows for the first time that a signal transferred from a rootstock to a scion interferes with a function expression of a nucleic acid sequence that is not expressed by the plant genome; page 40 lines 13-14 (the non-transformed scion was grafted . . . on top of a transgenic) and page 47, line 22 (protective rootstock for non-transformed scions) of the WO 2005/079162 publication of the instant specification. As no new matter has been added, entry of the amendments at this time is therefore respectfully requested.

In response to the Restriction Requirement, Applicant hereby elects, with traverse, Group II, claims 68-70 and 80-94, drawn to a plant comprising a transgenic rootstock resistant to a viral disease and a scion susceptible to the viral disease wherein the transgenic rootstock resistant to viral disease comprises a DNA construct designed for generating siRNA.

Applicant respectfully points out the inaccurate summary of the technical feature linking the inventions of Groups I-VI. This inaccurate summary of the technical feature linking the inventions thereby leads to the improper restriction requirement. Specifically, at page 4 of the Office Action it states:

[t]he technical feature linking the inventions of Groups I-VI is a grafted plant comprising a transgenic rootstock resistant t [sic] a viral disease and a scion susceptible to the viral disease wherein the at least one segment of the viral genome encodes a viral coat protein.

The present invention is actually directed to an engrafted plant resistant to viral disease other than by means of expression of an anti-viral protein and a scion susceptible to the viral disease,

wherein the engrafted plant is resistant to the viral disease and the rootstock is the only transgenic part of the plant. See currently amended claim 68 (claim 68 was amended to expressly clarify that the claims are directed to plants wherein the rootstock is the only transgenic part of the plant). Based on the inaccurate summary of the technical feature, the Office Action erroneously concludes that the technical linking feature is anticipated by Sonoda et al. (2000. The plant Journal 21:1-8), describing transmission of post-transcriptional gene silencing (PTGS) in tobacco plants transformed with viral coat protein, wherein PTGS is transferred from silenced rootstock to non-silenced scion such that the engrafted plant is resistant to the virus (SPFMV-S).

Applicant respectfully submits that the actual technical feature linking Groups I-VI is not anticipated by Sonoda. The heart of the presently claimed invention is that only the rootstock is transgenic, while the scion does not comprise the nucleic acid segment. Applicant was the first to discover that a signal transferred from a transgenic rootstock to a non-transgenic scion interferes with a functional expression of a nucleic acid sequence that is not expressed by the plant genome, in a sequence specific manner. See, e.g. page 22, lines 17-23 (transgenic rootstock . . . confers viral resistance to a susceptible scion [i.e., non-transgenic] . . . and shows for the first time that a signal transferred from a rootstock to a scion interferes with a function expression of a nucleic acid sequence that is not expressed by the plant genome; page 40 lines 13-14 (the non-transformed scion was grafted . . . on top of a transgenic) and page 47, line 22 (protective rootstock for non-transformed scions) of the WO 2005/079162 publication of the instant specification. Based on this, the agricultural product produced by the plants of the presently claimed invention is advantageously not genetically modified, as the rootstock is the only transgenic part of the plant. See page of 4 of the Specification.

This is clearly an advantage over the prior art and is distinct from the teachings of Sonoda et al., wherein both the silenced rootstocks and the non-silenced scion are transgenic lines comprising either intact or modified versions of the viral coat protein gene (see Sonoda et al. page 7 right column, describing the plant material used therein). Sonoda et al. therefore cannot anticipate the present invention and the technical linking feature between Groups I-VI. In view of this, Applicant respectfully requests that the Restriction Requirement be withdrawn. Thus, if

the generic claim/technical feature linking the claims is found to be allowable, all of the species claims that require the limitations of the generic claim/technical linking feature should also be allowable. See MPEP § 821.04(a). In other words, the search and examination of the claims can be made without serious burden to the Examiner in view of the technical linking feature/the generic claim setting forth the main crux of the invention over the prior art.

Thus, Applicant respectfully requests that the restriction requirement be withdrawn. Applicant reserves the right to rejoin the method claims (Groups V and VI, claims 100-126) upon the allowance of the product claims. Applicant further expressly reserves the right to file one or more divisional or continuing applications to protect the inventions of the non-elected group and other disclosed, but unclaimed, subject matter prior to the issuance of this application.

Respectfully submitted,

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Date

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